

AMENDED IN ASSEMBLY JULY 1, 2008

AMENDED IN ASSEMBLY JUNE 18, 2008

AMENDED IN SENATE JANUARY 28, 2008

AMENDED IN SENATE JANUARY 17, 2008

AMENDED IN SENATE JANUARY 7, 2008

SENATE BILL

No. 364

Introduced by Senator Simitian

February 20, 2007

An act to add Sections 1798.29.5 and 1798.82.5 to the Civil Code, relating to personal information.

LEGISLATIVE COUNSEL'S DIGEST

SB 364, as amended, Simitian. Personal information: privacy.

Existing law requires any agency, and any person or business conducting business in California, that owns or licenses computerized data that includes personal information, as defined, to disclose in specified ways, any breach of the security of the system or data, as defined, following discovery or notification of the security breach, to any California resident whose unencrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person. Existing law also requires any agency, person, or business that maintains computerized data that includes personal information that the agency, person, or business does not own to notify the owner or licensee of the information of any breach of the security of the data immediately following discovery, if the personal information was, or is reasonably believed to have been, acquired by an unauthorized person.

This bill would ~~provide specific requirements as to how~~ *authorize* an agency, person, or business ~~shall provide, at its discretion, to include within those notices information about what has been done to protect persons whose information has been breached, and advice on steps those persons may take to protect themselves.~~ This bill would also require the agency, person, or business, in addition to the duties specified above, to submit electronically a copy of the notification of the breach to the Attorney General, as specified.

This bill would become operative only if AB 1779 of the 2007–08 Regular Session is enacted and takes effect on or before January 1, 2009.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1798.29.5 is added to the Civil Code, to
2 read:
3 ~~1798.29.5. (a) Any agency that must issue a security breach~~
4 ~~notification pursuant to Section 1798.29 shall meet all of the~~
5 ~~following requirements:~~
6 ~~(1) The security breach notification shall be written in plain~~
7 ~~language.~~
8 ~~(2) The security breach notification shall include, at a minimum,~~
9 ~~the following information:~~
10 ~~(A) The name and contact information of the reporting agency~~
11 ~~subject to this section.~~
12 ~~(B) A list of the types of personal information, as defined in~~
13 ~~Section 1798.29, that were or are reasonably believed to have been~~
14 ~~the subject of a breach.~~
15 ~~(C) The approximate date of the breach, if known, and the date~~
16 ~~of the notice.~~
17 ~~(D) Whether the notification was delayed as a result of a law~~
18 ~~enforcement investigation.~~
19 ~~(E) A general description of the breach incident.~~
20 ~~(F) The estimated number of persons affected by the breach.~~
21 ~~(G) The toll-free telephone numbers and addresses of the major~~
22 ~~credit reporting agencies if the breach exposed a bank account or~~
23 ~~credit card number, a social security number, or a driver's license~~
24 ~~or California Identification Card number.~~

1 ~~(3) At the discretion of the agency, the security breach~~
2 ~~notification may also include:~~

3 ~~(A)–~~

4 *1798.29.5. (a) At the discretion of any agency that must issue*
5 *a security breach notification pursuant to Section 1798.29, the*
6 *security breach notification may include the following:*

7 *(1) Information about what the agency has done to protect*
8 *individuals whose information has been breached.*

9 ~~(B)~~

10 *(2) Advice on steps that the person whose information has been*
11 *breached may take to protect himself or herself.*

12 *(b) An agency that must issue a security breach notification*
13 *pursuant to subdivision (a) or (g) of Section 1798.29 shall do the*
14 *following :*

15 *(1) Submit electronically to the Attorney General a single sample*
16 *copy of any security breach notification letter sent to over 1,000*
17 *California residents pursuant to subdivision (a) of Section 1798.29.*

18 *(2) Submit electronically to the Attorney General a single sample*
19 *copy of any substitute security breach notification sent to California*
20 *residents pursuant to subdivision (g) of Section 1798.29.*

21 SEC. 2. Section 1798.82.5 is added to the Civil Code, to read:

22 ~~1798.82.5. (a) Any person or business that must issue a security~~
23 ~~breach notification pursuant to Section 1798.82 shall meet the~~
24 ~~following requirements:~~

25 ~~(1) The security breach notification shall be written in plain~~
26 ~~language.~~

27 ~~(2) The security breach notification shall include, at a minimum,~~
28 ~~the following information:~~

29 ~~(A) The name and contact information of the reporting person~~
30 ~~or business subject to this section.~~

31 ~~(B) A list of the types of personal information, as defined in~~
32 ~~Section 1798.82, that were or are reasonably believed to have been~~
33 ~~the subject of a breach.~~

34 ~~(C) The approximate date of the breach, if known, and the date~~
35 ~~of the notice.~~

36 ~~(D) Whether the notification was delayed as a result of a law~~
37 ~~enforcement investigation.~~

38 ~~(E) A general description of the breach incident.~~

39 ~~(F) The estimated number of persons affected by the breach.~~

1 ~~(G) The toll-free telephone numbers and addresses of the major~~
2 ~~credit reporting agencies if the breach exposed a bank account or~~
3 ~~credit card number, a social security number, or a driver's license~~
4 ~~or California Identification Card number.~~

5 ~~(3) At the discretion of the person or business, the security~~
6 ~~breach notification may also include:~~

7 ~~(A)–~~

8 ~~1798.82.5. (a) At the discretion of any person or business that~~
9 ~~must issue a security breach notification pursuant to Section~~
10 ~~1798.82, the security breach notification may include the following:~~

11 ~~(1) Information about what the person or business has done to~~
12 ~~protect individuals whose information has been breached.~~

13 ~~(B)~~

14 ~~(2) Advice on steps that the person whose information has been~~
15 ~~breached may take to protect himself or herself.~~

16 ~~(b) A person or business that must issue a security breach~~
17 ~~notification pursuant to subdivision (a) or (g) of Section 1798.82~~
18 ~~shall do the following:~~

19 ~~(1) Submit electronically to the Attorney General a single;~~
20 ~~sample copy of any security breach notification letter sent to over~~
21 ~~1,000 California residents pursuant to subdivision (a) of Section~~
22 ~~1798.82.~~

23 ~~(2) Submit electronically to the Attorney General a single;~~
24 ~~sample copy of any substitute security breach notification sent to~~
25 ~~California residents pursuant to subdivision (g) of Section 1798.82.~~

26 ~~SEC. 3. This act shall become operative only if Assembly Bill~~
27 ~~1779 of the 2007–08 Regular Session is enacted and takes effect~~
28 ~~on or before January 1, 2009.~~